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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,619

07/26/2004

Mats Sabclstrom

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EXAMINER

RODRIGUEZ, PAMELA

ART UNIT

PAPER NUMBER

3683

MAIL DATE

DELIVERY MODE

09/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/710,619	Applicant(s) SABELSTROM ET AL.	
	Examiner Pam Rodriguez	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration:
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 5, 2007 has been entered.

Drawings

2. The new Figure 1 drawing was received on September 5, 2007. This drawing is approved by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 11, 13-16, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by WO document number 95/33631 to Heinzelmann et al.

Regarding Claim 1, Heinzelmann et al disclose a device for controlling or regulating total auxiliary brake torque in a motor vehicle (see Figure 1) having all the features of the instant invention including: transmission components (i.e., at least the transmission and transmission shaft present in the disclosed vehicle) coupled to an engine and at least two drive wheels, at least one auxiliary brake 30 and at least one second auxiliary brake 28 that is different from the first (i.e., a separate and distinct component which stands on its own), the second auxiliary brake 28 being a retarder (see the translated abstract); and a control system (see Figure 1) for controlling the first and second auxiliary brakes and in which information on characteristics of the auxiliary brakes and at least one predefined limit value V_s for maximally permitted auxiliary braking torque are stored (see the translated abstract), the control system being configured so that if the predefined limit value V_s is exceeded, the control system effects an adjustment to the magnitude of braking torque imposed by the retarder 28 (see the last two lines of the translated abstract).

Regarding Claims 2 and 3, Heinzelmann et al further disclose that the adjustment of the magnitude of braking torque imposed by the retarder 28 is either a turning down or a moderation of the magnitude of braking torque imposed by the retarder (note: since the magnitude of the braking torque of the retarder is controlled so that the instantaneous speed does not exceed the reference speed/predefined limit value, it can be said that this control would have to be effected by either the turning down or the moderation of the magnitude of the braking torque to achieve this required deceleration).

Regarding Claim 4, from the last two lines of the translated abstract, it appears to follow that each of the auxiliary brakes 28 and 30 can be controlled individually to regulate braking torque, so then it would follow that if the retarder 28 is not sufficient to get below the limit value V_s , then the control system could also then effect an adjustment to the braking torque of first auxiliary brake 30.

Regarding Claims 5 and 6, see Claims 2 and 3 above, where the same logic would apply to the first auxiliary brake magnitude adjustments.

Regarding Claims 7 and 16, see the translated abstract which discloses that one of the auxiliary brakes could be an engine brake.

Regarding Claim 11, note that in essence at least the output of the transmission which could have a lowest torque capacity at some point during its operation and which ultimately controls the instantaneous speed of the vehicle, would determine the predefined limit value of instantaneous velocity at least to some extent. In other words, the output of the transmission effects overall vehicle speed and this vehicle speed is what is used in the reference to control the braking torque.

Regarding Claim 13, see the translated abstract.

Regarding Claim 14, see Claims 1-3 above.

Regarding Claim 15, see Claim 4 above.

Regarding Claim 18, see auxiliary brakes 30 and 28, both being retarders, wherein the control system (see Figure 1) is set up to turn down or moderate the second auxiliary brake 28 (or any of the auxiliary brakes for that matter) if the limit value V_s is exceeded (see Claims 2 and 3 and the last two lines of the translated abstract).

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Regarding Claim 19, see Claim 11 above.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 8-10, 12, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO document number 95/33631 to Heinzelmann et al.

Regarding Claim 8, Heinzelmann et al disclose most all the features of the instant invention as applied above, except for the first auxiliary brake being an Integrated Starter Generator.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the first auxiliary brake of Heinzelmann et al to

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be an Integrated Starter Generator as a matter of design preference dependent upon the desired type of auxiliary brake to be used in the system. As long as the component can perform a braking function, the type of auxiliary brake used to do so is arbitrary.

Regarding Claims 9 and 10, Heinzelmann et al disclose most all the features of the instant invention as applied above except for the second auxiliary brake being either a hydrodynamic retarder or an electromagnetic retarder.

Along the same lines as Claim 8, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the second auxiliary brake of Heinzelmann et al to be either a hydrodynamic or an electromagnetic retarder as a matter of design preference dependent upon the desired type of auxiliary brake to be used in the system. As long as the component can perform a braking function, the type of auxiliary brake used to do so is arbitrary.

Regarding Claim 12, Heinzelmann et al disclose most all the features of the instant invention as applied above, except for a torque-measuring device coupled to the control system fitted to the transmission component having the lowest torque capacity.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a torque measuring device into the system of Heinzelmann et al as an alternate means of providing a more accurate way of determining the predefined limit value.

Regarding Claim 17, see Claims 9 and 10 above.

Regarding Claim 20, see Claim 12 above.

Response to Arguments

8. Applicant's remarks filed September 5, 2007 have been fully considered. However, upon further review of the WO 95/33631 reference, the examiner has concluded that the claims do in fact still read on this previously cited prior art. The examiner has attempted to clearly outline her new position in the rejection of the claims above.

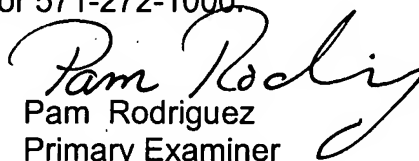
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Tuesdays 5:30 AM -4 PM and Wednesdays 5 AM -11 AM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Pam Rodriguez
Primary Examiner
Art Unit 3683
9/24/07

PR
09/24/07